

## **601 KAR 13:090. Medical Review Board; basis for examination, evaluation, tests.**

RELATES TO: KRS 186.411, 186.444, 186.570

STATUTORY AUTHORITY: KRS 186.400, 186.411, 186.444, 186.570

NECESSITY, FUNCTION, AND CONFORMITY: KRS 186.444 and 186.570 require the Transportation Cabinet to promulgate administrative regulations establishing the Medical Review Board. This administrative regulation establishes the board and clarifies differences between the statutes.

Section 1. (1) The Medical Review Board shall be chaired by the Commissioner of the Department of Vehicle Regulation of the Transportation Cabinet or his representative.

(2) A quorum of the Medical Review Board shall be at least three (3) physicians licensed to practice medicine in the Commonwealth of Kentucky.

(3) Appointees to the Medical Review Board who are not physicians licensed pursuant to KRS Chapter 311 may have their appointment restricted to a specified area of expertise.

(4) The Commissioner of the Department of Vehicle Regulation or his representative shall prescribe the time and place for the board to meet.

(5) The nonstate government members of the board who participate in a meeting shall be paid \$200 each day or part of a day and reimbursed for necessary expenses incurred in attending the meeting.

Section 2. (1) If the Commissioner of the Department of Vehicle Regulation or his representative receives notice that one (1) or more of the conditions listed in Section 4 of this administrative regulation exists in a person and that the person's physical or mental condition may render it unsafe for him to operate a motor vehicle upon the public highways, the commissioner shall refuse to issue an operator's license to the person or he shall suspend the existing driving privilege of the person unless the person submits to an examination by a qualified physician within forty-five (45) days of notification of the commissioner's intentions.

(2) If the department deems that an examination by a qualified physician is necessary, the required medical examination shall be conducted at the person's own expense by a licensed physician of his choice.

(3) The examining physician shall report within forty-five (45) days the results of his examination directly to the Division of Driver Licensing on a form furnished by the Department of Vehicle Regulation. The Medical Review Board Form TC 94-86, revised in November 1995, is incorporated by reference in Section 5 of this administrative regulation.

(4)(a) As soon as possible after receipt of the completed form, the Department of Vehicle Regulation shall evaluate it according to the medical standards set forth in 601 KAR 13:100.

(b) The Department of Vehicle Regulation shall submit a case in which medical or rehabilitation expertise is needed to evaluate the driving ability of a person to the Medical Review Board.

(c) The Medical Review Board may make recommendations to the Department of Vehicle Regulation for further medical examination, testing, or restriction of the person's driving privilege, or denial of driving privilege.

(d) If the Medical Review Board recommends further examination or investigative testing or if the Department of Vehicle Regulation determines it to be necessary, the Commissioner of the Department of Vehicle Regulation or his representative shall notify the person of the date by which he shall comply in order to retain or obtain his driving privilege.

Section 3. (1) If the Medical Review Board or Department of Vehicle Regulation, pursuant to the evaluation in Section 2(3) of this administrative regulation, recommends total suspension of a person's driving privilege or any limitations thereon, the Commissioner of the Department of Vehicle

Regulation or his representative shall notify the person at the last known address of the person that this action will be taken unless a written request for an informal hearing before the board is received within twenty (20) days following the first class mailing of the notice. The person shall also be informed of his right to:

- (a) An informal hearing before the board; and
  - (b) If necessary, an appeal to the board for a formal administrative hearing pursuant to KRS Chapter 13B.
- (2) The informal hearing shall be scheduled as early as practicable at a time and place designated by the commissioner or his representative. Notice shall be mailed to the person involved no later than ten (10) days prior to the hearing date.
- (3) The commissioner or his representative shall preside at the hearing before the Medical Review Board and at least three (3) physician members shall be present.
- (4) The presiding officer may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers.
- (5) The scope of the hearing shall be limited to the presentation of the evidence upon which the Medical Review Board made their recommendation and any medical evidence the petitioner wishes to present in explanation or refutation of this evidence.
- (6) Evidence may be presented at the hearing in the form of depositions.
- (7) All testimony at the hearing shall be recorded and together with any depositions or exhibits introduced at the hearing shall form the complete record.
- (8) Within ten (10) working days after the hearing, the commissioner shall issue a decision which shall be promptly forwarded to the petitioner along with the notice required pursuant to subsection (9) of this section.
- (9) The petitioner shall be informed of his right to an administrative hearing pursuant to the provisions of KRS Chapter 13B.

Section 4. The Commissioner of the Department of Vehicle Regulation or his representative shall promptly notify the person involved to submit to the physical examination set out in Section 2 of this administrative regulation when one (1) or more of the following conditions exists:

- (1) Driver has indicated that he "blacked out", lost consciousness or suffered a seizure prior to a reportable motor vehicle accident;
- (2) Driver has been named in an affidavit by at least two (2) citizens as being incapable of properly operating a motor vehicle due to physical or mental infirmities;
- (3) Driver has been reported by a physician as being incapable of driving safely due to physical or mental condition or due to medication prescribed for an extended time;
- (4) Driver has been reported by a law enforcement officer or a Kentucky State Police license examiner who has reason to believe or who has observed an individual driving or behaving in an erratic or dangerous manner which indicates a possibility of a physical or mental disability which may impair his driving ability;
- (5) Applicant for a motor vehicle operator's license or for its renewal indicates on the application form that he has a physical or mental disability which may impair his driving ability;
- (6) Driver's official record kept by the Department of Vehicle Regulation indicates a possibility of physical or mental impairment;
- (7) Driver has been reported by a commonwealth attorney, county attorney, county clerk, circuit clerk, sheriff, or judge as being incapable of driving due to a physical or mental impairment; or
- (8) Driver has reported to the Transportation Cabinet or Medical Review Board that he has a mental or physical impairment.

Section 5. (1) Medical Review Board Form TC 94-86, revised November 1995, is incorporated by

reference as a part of this administrative regulation.

(2) The material incorporated by reference in this administrative regulation can be viewed, copied, or obtained from the Division of Driver Licensing. The address is 501 High Street, Second Floor, Frankfort, Kentucky 40601. The telephone number is (502) 564-5384. The business hours are 8 a.m. to 4:30 p.m. on weekdays. (23 Ky.R. 219; Am. 1593; eff. 10-1-96.)